

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MARIO D. DOTSON,

Defendant-Appellant.

UNPUBLISHED

January 24, 2003

No. 235913

Wayne Circuit Court

LC No. 00-013112-03

Before: Cooper, P.J., and Bandstra and Talbot, JJ.

MEMORANDUM.

Defendant appeals as of right his bench trial convictions for assault with intent to rob while armed, MCL 750.89, and felony-firearm, MCL 750.227b. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant asserts that there was insufficient evidence to support his conviction for assault with intent to rob while armed. In reviewing sufficiency of the evidence claims, this Court views the evidence in a light most favorable to the prosecution and determines whether a rational finder of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Johnson*, 460 Mich 720, 723; 597 NW2d 73 (1999).

The elements of assault with intent to commit robbery while armed are: (1) an assault with force or violence; (2) an intent to rob; and (3) defendant's being armed. *People v Smith*, 152 Mich App 756, 761; 394 NW2d 94 (1986). The evidence established that complainant received a severe beating, in which defendant participated. Defendant was searching for money while committing the assault, and he was armed. The evidence was sufficient to support the conviction.

Defendant also asserts that he was denied the effective assistance of counsel. Specifically, defendant notes his counsel's failure to object to the complainant's testimony about contacts with defendant after the crime. To establish an ineffective assistance of counsel claim, defendant first must show that counsel's performance was below an objective standard of reasonableness under prevailing professional norms. The defendant must overcome a strong presumption that counsel's actions constituted sound trial strategy. Second, the defendant must show that there is a reasonable probability that, but for counsel's error, the result of the proceeding would have been different. *People v Carbin*, 463 Mich 590, 599-600; 623 NW2d 884 (2001).

There is no showing that trial counsel erred in failing to object to the testimony. The threats after the crime were relevant to establish intent, and to support complainant's testimony that she told defendants if they stopped beating her, she would give them money the next day. Moreover, defendant has failed to show that the admission of this evidence affected the outcome of the trial.

Affirmed.

/s/ Jessica R. Cooper
/s/ Richard A. Bandstra
/s/ Michael J. Talbot